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Attorneys for Defendant
Premier Oilfield Equipment Company

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT ANCHORAGE

ATIGUN, INC.,

Plaintiff,

v.

PREMIER OILFIELD EQUIPMENT
COMPANY, TIGER OILFIELD TANK
COMPANY, LLC, f/k/a DELTA OILFIELD
TANK CO., LLC, HY-TECH TRUCK &
TRAILER MANUFACTURING, LLC and
GARY HARMS, JR.,

Defendant.

Case No. 3:12-cv-_____

NOTICE OF REMOVAL

TO: The United States District Court
For The District of Alaska

AND TO: Robert H. Schmidt
Bruce A. Moore
Landye Bennett Blumstein LLP
701 West 8th Avenue, Suite 1200
Anchorage, AK 99501

Defendant Premier Oilfield Equipment Company (“Premier”), through its attorneys, hereby submits the following as its Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446 and states as follows:

STATEMENT OF GROUNDS FOR REMOVAL

1. Plaintiff Atigun, Inc. (“Atigun”) commenced an action in the Superior Court for the Third Judicial District at Kenai styled *Atigun, Inc. v. Premier Oilfield Equipment*

Company, et al., Case No. 3KN-12-811 CI, on July 26, 2012. An Amended Complaint was filed on August 1, 2012 and a Second Amended Complaint was filed on October 4, 2012.

2. Premier did not receive a copy, though service or otherwise, of the initial Complaint or the Amended Complaint. *See* Ex. 1, Affidavit of Ian Dickinson (“Dickinson Aff.”) ¶ 4.

3. Premier was served with the Summons and Second Amended Complaint on October 30, 2012, through its registered agent, The Corporation Service Company in Wilmington, Delaware. A true and correct copy of the Summons and Second Amended Complaint served on Premier are attached to the Dickinson Affidavit.

4. The Second Amended Complaint alleges that the Atigun is an Alaska corporation. Second Amended Complaint ¶ 1.

5. Premier is a Delaware corporation with offices in Colorado. *Id.* ¶ 4. Premier’s principal office is located in Fort Morgan, Colorado. Dickinson Aff. ¶ 5.

6. None of the other defendants identified in the Second Amended Complaint are citizens of Alaska. Specifically:

- a. Defendant Tiger Oilfield Tank Company, LLC (“Tiger”) is a Colorado limited liability company. Second Amended Complaint ¶ 2. Premier is alleged to be the successor in interest of Tiger. *Id.* ¶ 4.
- b. Defendant Hy-Tech Truck & Trailer Manufacturing, LLC is also a Colorado limited liability company. *Id.* ¶ 3.
- c. Defendant Gary Harms, Jr. is an individual residing in Colorado. *Id.* ¶ 6.
- d. There are no allegations in the Second Amended Complaint that any of the defendants were formed in Alaska or have a principal office (or operations of any kind) in Alaska.

7. In its Second Amended Complaint, Atigun asserts claims for breach of contract, breach of warranty, breach of the implied covenant of good faith and fair dealing, rescission, misrepresentations, and unfair trade practices related to the purchase of 120 tanks to be used for hydraulic fracturing and other oilfield uses. Second Amended Complaint at ¶ 11. Atigun alleges that it has suffered damages estimated to be \$30 million. *Id.* ¶ 21.

Notice of Removal

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8. Because there is complete diversity of citizenship among the parties, and because the amount in controversy exceeds the jurisdictional minimum, this Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1). Accordingly, this action is removable to this Court pursuant to 28 U.S.C. § 1441.

9. This Notice of Removal is being filed with the Court on a timely basis under 28 U.S.C. § 1446(b). Pursuant to 28 U.S.C. § 1446(d), this Notice of Removal will be served upon Atigun and will be filed promptly in the state court.

10. Pursuant to 28 U.S.C. § 1446(a), copies of all pleadings and orders served upon Premier have been appended hereto.

11. All defendants consent to the removal of this action. *See* Ex. 2, Declaration of Gary W. Harms, Jr.

DATED this 15th day of November, 2012.

I certify that on November 15, 2012, a copy of the foregoing was served electronically on:

Robert H. Schmidt
Bruce A. Moore
Landye Bennett Blumstein LLP
701 West 8th Avenue, Suite 1200
Anchorage, AK 99501

s/ Peter C. Partnow
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LANE POWELL LLC
Attorneys for Defendant

By s/ Peter C. Partnow
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